

**Executive Summary – Enforcement Matter – Case No. 51757**  
**Martin Operating Partnership L.P.**  
**RN102605136**  
**Docket No. 2016-0096-MLM-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MLM – IHW, WQ

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

Stanolind Cut Terminal, located at Number 10 Sulphur Plant Road, 0.7 mile east of the interchange of State Highway 380 and U.S. Route 69, southwest of Beaumont, Jefferson County

**Type of Operation:**

Storage and distribution facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** June 10, 2016

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$14,253

**Amount Deferred for Expedited Settlement:** \$2,850

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$5,703

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$2,850

Name of SEP: Big Thicket Association (Third-Party Pre-Approved)

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$2,850

Name of SEP: National Audubon Society, Inc. (Third-Party Pre-Approved)

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - High

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

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**RN102605136**  
**Docket No. 2016-0096-MLM-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 10, 2015

**Date(s) of NOE(s):** January 5, 2016

***Violation Information***

1. Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state. Specifically, industrial wastewater bypassed the metals treatment system from July 18 through July 20, 2014, that resulted in the failure to comply with permitted effluent limitations for pH and total zinc. The permitted limit for pH is between 6.0 standard units ("S.U.") and 9.0 S.U. and the permitted limit for total zinc daily maximum and single grab is 0.449 milligrams per liter ("mg/L"). The values reported on the non-compliance notification were 2.2 S.U. and 2.3 S.U. for pH, and 2.061 mg/L and 1.661 mg/L for total zinc [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.535(c)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004074000, Permit Conditions No. 2.h.].
2. Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state. Specifically, industrial wastewater bypassed the metals treatment system from June 26 through June 28, 2014, that resulted in the failure to comply with permitted effluent limitations for total zinc. The permitted limit for total zinc daily maximum and single grab is 0.449 mg/L. The value reported on the non-compliance notification was 0.539 mg/L [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.535(c)(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.h.].
3. Caused, suffered, allowed, or permitted the unauthorized discharge of industrial solid waste. Specifically, several sulfur spills were noted along the rail line on the southeast side of the Facility; inside the southeast side of the bermed area of the tank farm; and on the ground in the truck sulfur pit on the northeast side of the Facility [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a.].
4. Failed to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state. Specifically, steam condensate was dripping from overhead steam lines on the outside of the containment levee and standing steam condensate was on the ground outside of the containment levee in the truck sulfur pit area. Additionally, it was noted that steam condensate from a steam relief pipe located on the north side of the Facility was running down the bank into the Neches River [TEX. WATER

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CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.g.].

5. Caused, suffered, allowed, or permitted the storage of industrial solid waste in such a manner so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to any water in the state. Specifically, a drum located outside the roofed storage area was full of liquid and missing bung plugs, a drum labeled Pine DX located under the roofed area was missing a bung plug, and a drum labeled Caprinus Oil XR SAE 40 located on the edge of the roofed area had an oily substance spilled on the top of the drum [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a.].

6. Failed to perform all measurements, tests, and calculations in a representative manner to ensure the accurate reporting of data. Specifically, instead of the necessary statement and a value of zero (0), the detection limit of 0.005 mg/L was reported for daily average and daily max copper values on the September 2015 discharge monitoring report [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004074000, Other Requirements No. 2].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By December 22, 2015, updated the Facility's operational guidance to ensure the proper calculation and necessary statement are utilized for reporting zero (0) on the monthly discharge monitoring reports when the sample result for any parameter is less than or equal to the minimum analytical level listed in the permit.
- b. By December 23, 2015:
  - i. Upgraded the maximum capacity of the metals treatment system to 200 gallons per minute, allowing for the proper management of wastewater during periods of elevated rainfall;
  - ii. Updated the Facility's operational guidance to ensure spilled sulfur is properly handled and the areas affected by the sulfur discharge are cleaned;
  - iii. Cleaned the areas affected by sulfur discharges and properly disposed of the spilled sulfur;

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**Martin Operating Partnership L.P.**  
**RN102605136**  
**Docket No. 2016-0096-MLM-E**

iv. Installed a capture sump, return pumps, containment curbing, and berms to capture discharged steam condensate from non-permitted areas and route it to the main containment area that is monitored at Outfall No. 001;

v. Rerouted the steam relief pipe located on the north side of the Facility to discharge into the dock water tank containment area, which is pumped and hauled off site; and

vi. Installed the missing bung plugs, properly cleaned the oily material from the drum, and placed the drums under the storage area roof.

**Technical Requirements:**

The Order will require the Respondent to implement and complete two SEPs (see SEP Attachments A and B).

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Larry Butler, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2543; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565

**Respondent:** Scot Shoup, Senior Vice President of Operations, Martin Operating Partnership L.P., P.O. Box 191, Kilgore, Texas 75662

**Respondent's Attorney:** N/A

Attachment A  
Docket Number: 2016-0096-MLM-E  
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Martin Operating Partnership L.P.
Penalty Amount:	Eleven Thousand Four Hundred Three Dollars (\$11,403)
SEP Offset Amount:	Two Thousand Eight Hundred Fifty Dollars (\$2,850)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Big Thicket Association
Project Name:	<i>Wetland Species and Ecosystems Analysis</i>
Location of SEP:	Neches and Sabine River Basins

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the "Project"). The Project will involve collecting specimens from the Preserve as well as wetland properties in Orange and Jefferson Counties, which are in the process of being donated to the Preserve. Currently, a Memorandum of Understanding regarding the impending donation is in place that will allow inventory of these properties. These properties have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Martin Operating Partnership L.P.  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Big Thicket Association SEP** and shall mail the contribution with a copy of the Agreed Order to:

Big Thicket Association  
Attention: Jan Ruppel, President  
P.O. Box 198  
Saratoga, Texas 77585

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or the Project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.





**Attachment B**

**Docket Number: 2016-0096-MLM-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Martin Operating Partnership L.P.</b>
<b>Penalty Amount:</b>	<b>Eleven Thousand Four Hundred Three Dollars (\$11,403)</b>
<b>SEP Offset Amount:</b>	<b>Two Thousand Eight Hundred Fifty Dollars (\$2,850)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>National Audubon Society, Inc. d/b/a Audubon Texas</b>
<b>Project Name:</b>	<b><i>Texas Coastal Island Stewardship Program</i></b>
<b>Location of SEP:</b> Anderson, Andrews, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Castro, Chambers, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, DeWitt, Dickens, Dimmit, Duval, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Fort Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Grayson, Grimes, Guadalupe, Hale, Hamilton, Hardin, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hunt, Irion, Jack, Jackson, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, La Salle, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Menard, Medina, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Nueces, Palo Pinto, Parker, Parmer, Polk, Reagan, Real, Refugio, Robertson, Refugio, Runnels, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terry, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Van Zandt, Walker, Waller, Washington, Victoria, Webb, Wharton, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, and Zavala Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society, Inc. d/b/a Audubon Texas** for the *Texas Coastal Island Stewardship Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used for a portion of its lease payments for the islands where this Project will take place. The SEP Offset Amount will also be used for predator control activities, including traps, baits, fire ant control, and fuel for accessing the islands to place the traps and baits. Contractors will also be hired periodically to conduct larger-scale predator control activities such as feral hog removal. The Third-Party Administrator shall also use SEP Offset Amount for restoration activities, including planting native trees and shrubs, herbicide for invasive species removal, equipment such as rakes and shovels for manual invasive species removal, and fuel for transporting volunteers and staff for restoration activities. Restoration activities will also include purchase and disposal of a Bagster in order to remove collected trash from the islands. The Third-Party Administrator shall also purchase materials for building nesting towers, purchase "No Trespassing" signs, and hire a contractor to install the signs across the islands.

The Third-Party Administrator shall use the SEP Offset Amount for personnel labor through its warden program. Wardens shall conduct monitoring, habitat enhancement, and predator management. Wardens shall also conduct island management activities such as patrolling and counting bird populations by boat during the nesting season, developing new nesting habitat through plantings, and monitoring predator activity and erosion. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

Martin Operating Partnership L.P.  
Agreed Order - Attachment B

b. Environmental Benefit

The populations of many species of water bird located along the Texas coast have been declining. Healthy feeding and nesting habitats are essential to the water birds' ability to survive and successfully reproduce. This Project addresses threats to water bird habitats such as erosion and subsidence, loss of nesting vegetation, fire ants, human disturbance, and mammal predators. This Project will also improve water quality in and around the island sanctuaries.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **National Audubon Society, Inc. d/b/a Audubon Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

National Audubon Society, Inc. d/b/a Audubon Texas  
Attn.: Sharyl Sliger, Director of Finance & Administration  
2201 Main Street, Suite 600  
Dallas, Texas 75201

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 4. Failure to Fully Perform

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### 5. Publicity

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### 6. Recognition

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### 7. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	19-Jan-2016	<b>Screening</b>	20-Jan-2016	<b>EPA Due</b>	
	<b>PCW</b>	3-Mar-2016				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Martin Operating Partnership L.P.		
<b>Reg. Ent. Ref. No.</b>	RN102605136		
<b>Facility/Site Region</b>	10-Beaumont	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	51757	<b>No. of Violations</b>	6
<b>Docket No.</b>	2016-0096-MLM-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>	Industrial and Hazardous Waste	<b>Enf. Coordinator</b>	Larry Butler
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$9,500
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## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	25.0%	<b>Adjustment</b>	<b>Subtotals 2, 3, &amp; 7</b>	\$2,375
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**Notes** Enhancement for one month of self-reported effluent violations and one agreed order with a denial of liability.

<b>Culpability</b>	No	0.0%	<b>Enhancement</b>	<b>Subtotal 4</b>	\$0
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**Notes** The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	-\$2,372
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<b>Economic Benefit</b>	50.0%	<b>Enhancement*</b>	<b>Subtotal 6</b>	\$4,750
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Total EB Amounts \$15,630  
Estimated Cost of Compliance \$157,420

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$14,253
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

<b>Final Penalty Amount</b>	\$14,253
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$14,253
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<b>DEFERRAL</b>	20.0%	<b>Reduction</b>	<b>Adjustment</b>	-\$2,850
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	\$11,403
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Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one month of self-reported effluent violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code §§ 305.125(1) and 305.535(c)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004074000, Permit Conditions No. 2.h

Violation Description

Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state, as documented during an investigation conducted on November 10, 2015. Specifically, industrial wastewater bypassed the metals treatment system from July 18 through July 20, 2014, that resulted in the failure to comply with permitted effluent limitations for pH and Total Zinc. The permitted limit for pH is 6.0-9.0 standard units (S.U.) and the permitted limit for Total Zinc daily maximum and single grab is 0.449 milligrams per liter (mg/L). The values reported on the non-compliance notification were 2.2 S.U. and 2.3 S.U. for pH, and 2.061 mg/L and 1.661 mg/L for Total Zinc.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended, calculated for the dates the bypass occurred (July 18-July 20, 2014).

## Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent completed corrective actions by December 23, 2015.

Violation Subtotal \$2,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$15,561

Violation Final Penalty Total \$5,626

This violation Final Assessed Penalty (adjusted for limits) \$5,626

# Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 51757  
**Reg. Ent. Reference No.** RN102605136  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$148,880	26-Jun-2014	23-Dec-2015	1.49	\$741	\$14,820	\$15,561
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the maximum capacity of the metals treatment system to 200 gallons per minute, allowing for the proper management of wastewater during periods of elevated rainfall. Date required is the date of the first documented bypass that resulted in an effluent exceedance. Final date is the date documentation was submitted to the Beaumont Regional Office stating capacity upgrades were completed.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$148,880

TOTAL

\$15,561



Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code §§ 305.125(1) and 305.535(c)(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.h

Violation Description

Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state, as documented during an investigation conducted on November 10, 2015. Specifically, industrial wastewater bypassed the metals treatment system from June 26 through June 28, 2014, that resulted in the failure to comply with permitted effluent limitations for Total Zinc. The permitted limit for Total Zinc daily maximum and single grab is 0.449 mg/L. The value reported on the non-compliance notification was 0.539 mg/L.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

3 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended, calculated for the dates the bypass occurred (June 26-June 28, 2014).

## Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent completed corrective actions by December 23, 2015.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,876

This violation Final Assessed Penalty (adjusted for limits) \$1,876

# Economic Benefit Worksheet

Respondent Martin Operating Partnership L.P.  
Case ID No. 51757  
Reg. Ent. Reference No. RN102605136  
Media Water Quality  
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to upgrade the maximum capacity of the metals treatment system is captured in the Economic Benefit Worksheet for Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code §§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a

Violation Description

Caused, suffered, allowed, or permitted the unauthorized discharge of industrial solid waste, as documented during an investigation conducted on November 10, 2015. Specifically, several sulfur spills were noted along the rail line on the southeast side of the Facility; inside the southeast side of the bermed area of the tank farm; and on the ground in the truck sulfur pit on the northeast side of the Facility.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of November 10, 2015 to the compliance date of December 23, 2015.

## Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 23, 2015.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$1,876

This violation Final Assessed Penalty (adjusted for limits) \$1,876

# Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 51757  
**Reg. Ent. Reference No.** RN102605136  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	10-Nov-2015	23-Dec-2015	0.12	\$1	n/a	\$1
Remediation/Disposal	\$500	10-Nov-2015	23-Dec-2015	0.12	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance to ensure spilled sulfur is properly handled and the areas affected by the sulfur discharge are cleaned. Date required is the investigation date. Final date is the date of compliance.

Estimated cost to properly clean the areas affected by the sulfur discharge and dispose of the spilled sulfur. Date required is the investigation date. Final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$600

TOTAL

\$4

Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 4

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state, as documented during an investigation conducted on November 10, 2015. Specifically, steam condensate was dripping from overhead steam lines on the outside of the containment levee and standing steam condensate was on the ground outside of the containment levee in the truck sulfur pit area. Additionally, it was noted that steam condensate from a steam relief pipe located on the north side of the Facility was running down the bank into the Neches River.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,250

One quarterly event is recommended from the investigation date of November 10, 2015 to the compliance date of December 23, 2015.

## Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 23, 2015.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$64

Violation Final Penalty Total \$1,876

This violation Final Assessed Penalty (adjusted for limits) \$1,876

# Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 51757  
**Reg. Ent. Reference No.** RN102605136  
**Media** Water Quality  
**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction	\$7,740	10-Nov-2015	23-Dec-2015	0.12	\$3	\$61	\$64
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install a capture sump, return pumps, containment curbing, and berms to capture discharged steam condensate from non-permitted areas and route it to the main containment area that is monitored at Outfall No. 001; and to reroute the steam relief pipe located on the north side of the Facility to discharge into the dock water tank containment area, which is pumped and hauled off site.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$7,740

TOTAL

\$64

Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 5

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code §§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a

Violation Description

Caused, suffered, allowed, or permitted the storage of industrial solid waste in such a manner so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to any water in the state, as documented during an investigation conducted on November 10, 2015. Specifically, a drum located outside the roofed storage area was full of liquid and missing bung plugs, a drum labeled Pine DX located under the roofed area was missing a bung plug, and a drum labeled Caprinus Oil XR SAE 40 located on the edge of the roofed area had an oily substance spilled on the top of the drum.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 3.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to insignificant amounts of pollutants that would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$24,250

\$750

## Violation Events

Number of Violation Events 1

43

Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$750

One single event is recommended.

## Good Faith Efforts to Comply

25.0%

Reduction \$187

Extraordinary

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Respondent achieved compliance by December 23, 2015.

Violation Subtotal \$563

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,126

This violation Final Assessed Penalty (adjusted for limits) \$1,126

# Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 51757  
**Reg. Ent. Reference No.** RN102605136  
**Media** Water Quality  
**Violation No.** 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	10-Nov-2015	23-Dec-2015	0.12	\$1	n/a	\$1

Notes for DELAYED costs

Estimated cost to install the missing bung plugs, properly clean the oily material from the drum, and place the drums under the storage area roof. Date required is the investigation date. Final date is the compliance date.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1



Screening Date 20-Jan-2016

Docket No. 2016-0096-MLM-E

PCW

Respondent Martin Operating Partnership L.P.

Policy Revision 4 (April 2014)

Case ID No. 51757

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102605136

Media [Statute] Water Quality

Enf. Coordinator Larry Butler

Violation Number 6

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0004074000, Other Requirements No. 2

Violation Description

Failed to perform all measurements, tests, and calculations in a representative manner to ensure the accurate reporting of data, as documented during an investigation conducted on November 10, 2015. Specifically, instead of the necessary statement and a value of zero (0), the detection limit of 0.005 milligrams per liter was reported for daily average and daily max copper values on the September 2015 discharge monitoring report ("DMR").

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

42 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by December 22, 2015.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$1,876

This violation Final Assessed Penalty (adjusted for limits) \$1,876

# Economic Benefit Worksheet

**Respondent** Martin Operating Partnership L.P.  
**Case ID No.** 51757  
**Reg. Ent. Reference No.** RN102605136  
**Media** Water Quality  
**Violation No.** 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	10-Nov-2015	22-Dec-2015	0.12	\$1	n/a	\$1
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance to ensure the proper calculation and necessary statement are utilized for reporting zero (0) on the monthly DMRs when the sample result for any parameter is less than or equal to the minimum analytical level listed in the permit. Date required is the investigation date. Final date is the date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN601535925, RN102605136, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

<b>Customer, Respondent, or Owner/Operator:</b>	CN601535925, Martin Operating Partnership L.P.	<b>Classification:</b>	SATISFACTORY	<b>Rating:</b>	1.62
<b>Regulated Entity:</b>	RN102605136, Stanolind Cut Terminal	<b>Classification:</b>	HIGH	<b>Rating:</b>	0.00
<b>Complexity Points:</b>	8	<b>Repeat Violator:</b>	NO		
<b>CH Group:</b>	14 - Other				
<b>Location:</b>	NUMBER 10 SULPHUR PLANT ROAD, 0.7 MILE EAST OF THE INTERCHANGE OF STATE HIGHWAY 380 AND UNITED STATES ROUTE 69, SOUTHEAST OF BEAUMONT, JEFFERSON COUNTY, TEXAS				
<b>TCEQ Region:</b>	REGION 10 - BEAUMONT				

### ID Number(s):

**WASTEWATER PERMIT** WQ0004074000

**AIR NEW SOURCE PERMITS REGISTRATION** 39951

**AIR NEW SOURCE PERMITS REGISTRATION** 79714

**AIR NEW SOURCE PERMITS REGISTRATION** 50624

**STORMWATER PERMIT** TXR05BN24

**POLLUTION PREVENTION PLANNING ID NUMBER** P07388

**WASTEWATER EPA ID** TX0116921

**AIR NEW SOURCE PERMITS ACCOUNT NUMBER** JE0822N

**AIR NEW SOURCE PERMITS REGISTRATION** 81521

**AIR NEW SOURCE PERMITS AFS NUM** 4824500685

**AIR EMISSIONS INVENTORY ACCOUNT NUMBER** JE0822N

**Compliance History Period:** September 01, 2010 to August 31, 2015    **Rating Year:** 2015    **Rating Date:** 09/01/2015

**Date Compliance History Report Prepared:** March 02, 2016

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** March 02, 2011 to March 02, 2016

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Larry Butler

**Phone:** (512) 239-2543

### Site and Owner/Operator History:

- |  |     |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period?       | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO  |
| 3) If <b>YES</b> for #2, who is the current owner/operator?  | N/A |
| 4) If <b>YES</b> for #2, who was/were the prior owner(s)/operator(s)?                              | N/A |
| 5) If <b>YES</b> , when did the change(s) in owner or operator occur?                              | N/A |

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

- |   |   |                            |                                       |
|---|---|----------------------------|---------------------------------------|
| 1 | Effective Date: 02/04/2016                                    | ADMINORDER 2015-0090-IWD-E | (1660 Order-Agreed Order With Denial) |
|   | Classification: Moderate                                      |                            |                                       |
|   | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)        |                            |                                       |
|   | 30 TAC Chapter 305, SubChapter F 305.125(1)                   |                            |                                       |
|   | Rqmt Prov: Eff. Lim. Mon. Req. Nos. 1 and 2 PERMIT            |                            |                                       |
|   | Description: Failed to comply with permitted effluent limits. |                            |                                       |

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	January 20, 2011	(904864)	Item 31	June 18, 2013	(1112069)
Item 2	February 15, 2011	(910786)	Item 32	July 11, 2013	(1119006)
Item 3	March 11, 2011	(918044)	Item 33	August 17, 2013	(1126767)
Item 4	April 12, 2011	(932361)	Item 34	September 23, 2013	(1131300)
Item 5	May 16, 2011	(939751)	Item 35	October 22, 2013	(1137054)
Item 6	June 13, 2011	(947168)	Item 36	November 28, 2013	(1143490)
Item 7	July 20, 2011	(955424)	Item 37	December 21, 2013	(1148901)
Item 8	August 16, 2011	(962046)	Item 38	January 18, 2014	(1154983)
Item 9	September 20, 2011	(967096)	Item 39	February 20, 2014	(1162298)
Item 10	October 13, 2011	(973061)	Item 40	March 19, 2014	(1169949)
Item 11	November 19, 2011	(979190)	Item 41	April 19, 2014	(1176103)
Item 12	December 21, 2011	(986033)	Item 42	May 16, 2014	(1182324)
Item 13	January 18, 2012	(992384)	Item 43	June 19, 2014	(1189222)
Item 14	February 10, 2012	(1000819)	Item 44	July 18, 2014	(1195524)
Item 15	March 21, 2012	(1005242)	Item 45	August 17, 2014	(1202363)
Item 16	April 19, 2012	(1011819)	Item 46	October 18, 2014	(1208538)
Item 17	May 21, 2012	(1018178)	Item 47	November 19, 2014	(1220185)
Item 18	June 09, 2012	(1008762)	Item 48	December 17, 2014	(1227032)
Item 19	June 14, 2012	(1025919)	Item 49	January 14, 2015	(1232999)
Item 20	July 09, 2012	(1033272)	Item 50	February 20, 2015	(1243992)
Item 21	August 20, 2012	(1039788)	Item 51	March 19, 2015	(1250364)
Item 22	September 18, 2012	(1045767)	Item 52	April 17, 2015	(1257258)
Item 23	October 18, 2012	(1069384)	Item 53	May 20, 2015	(1264038)
Item 24	November 19, 2012	(1069385)	Item 54	June 18, 2015	(1271128)
Item 25	December 26, 2012	(1069386)	Item 55	July 15, 2015	(1245611)
Item 26	January 21, 2013	(1082764)	Item 56	July 16, 2015	(1278683)
Item 27	February 24, 2013	(1082763)	Item 57	August 18, 2015	(1284866)
Item 28	March 24, 2013	(1091133)	Item 58	September 17, 2015	(1291977)
Item 29	April 15, 2013	(1097467)	Item 59	November 20, 2015	(1303600)
Item 30	May 18, 2013	(1109555)			

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1      Date:      09/30/2015      (1298152)      CN601535925  
          Self Report?   YES      Classification:      Moderate  
          Citation:      2D TWC Chapter 26, SubChapter A 26.121(a)  
                               30 TAC Chapter 305, SubChapter F 305.125(1)  
          Description:      Failure to meet the limit for one or more permit parameter

**F. Environmental audits:****G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**  
N/A

**Sites Outside of Texas:**  
N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MARTIN OPERATING  
PARTNERSHIP L.P.  
RN102605136

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY  
§

## AGREED ORDER DOCKET NO. 2016-0096-MLM-E

### I. JURISDICTION AND STIPULATIONS

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Martin Operating Partnership L.P. (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a storage and distribution facility located at Number 10 Sulphur Plant Road, 0.7 mile east of the interchange of State Highway 380 and United States Route 69, southwest of Beaumont, Jefferson County, Texas (the "Facility").
2. The Facility involves or involved the management of industrial solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361. The Respondent has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 10, 2016.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fourteen Thousand Two Hundred Fifty-Three Dollars (\$14,253) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Five Thousand Seven Hundred Three Dollars (\$5,703) of the administrative penalty and Two Thousand Eight Hundred Fifty Dollars (\$2,850) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Five Thousand Seven Hundred Dollars (\$5,700) shall be conditionally offset by the Respondent's completion of two Supplemental Environmental Projects ("SEPs")
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. By December 22, 2015, updated the Facility's operational guidance to ensure the proper calculation and necessary statement are utilized for reporting zero (0) on the monthly discharge monitoring reports ("DMRs") when the sample result for any parameter is less than or equal to the minimum analytical level listed in the permit.
  - b. By December 23, 2015:
    - i. Upgraded the maximum capacity of the metals treatment system to 200 gallons per minute, allowing for the proper management of wastewater during periods of elevated rainfall;
    - ii. Updated the Facility's operational guidance to ensure spilled sulfur is properly handled and the areas affected by the sulfur discharge are cleaned;
    - iii. Cleaned the areas affected by sulfur discharges and properly disposed of the spilled sulfur;
    - iv. Installed a capture sump, return pumps, containment curbing, and berms to capture discharged steam condensate from non-permitted areas and route it to the main containment area that is monitored at Outfall No. 001;



- v. Rerouted the steam relief pipe located on the north side of the Facility to discharge into the dock water tank containment area, which is pumped and hauled off site; and
  - vi. Installed the missing bung plugs, properly cleaned the oily material from the drum, and placed the drums under the storage area roof.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
  - 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
  - 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.535(c)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0004074000, Permit Conditions No. 2.h., as documented during an investigation conducted on November 10, 2015. Specifically, industrial wastewater bypassed the metals treatment system from July 18 through July 20, 2014, that resulted in the failure to comply with permitted effluent limitations for pH and Total Zinc. The permitted limit for pH is between 6.0 standard units (S.U.) and 9.0 S.U. and the permitted limit for Total Zinc daily maximum and single grab is 0.449 milligrams per liter (mg/L). The values reported on the non-compliance notification were 2.2 S.U. and 2.3 S.U. for pH, and 2.061 mg/L and 1.661 mg/L for Total Zinc.
- 2. Failed to prevent the bypass of untreated or partially treated industrial wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 305.535(c)(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.h., as documented during an investigation conducted on November 10, 2015. Specifically, industrial wastewater bypassed the metals treatment system from June 26 through June 28, 2014, that resulted in the failure to comply with permitted effluent limitations for Total Zinc. The permitted limit for Total Zinc daily maximum and single grab is 0.449 mg/L. The value reported on the non-compliance notification was 0.539 mg/L.
- 3. Caused, suffered, allowed, or permitted the unauthorized discharge of industrial solid waste, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE

§§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a, as documented during an investigation conducted on November 10, 2015. Specifically, several sulfur spills were noted along the rail line on the southeast side of the Facility; inside the southeast side of the bermed area of the tank farm; and on the ground in the truck sulfur pit on the northeast side of the Facility.

4. Failed to prevent the unauthorized discharge of industrial wastewater into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004074000, Permit Conditions No. 2.g, as documented during an investigation conducted on November 10, 2015. Specifically, steam condensate was dripping from overhead steam lines on the outside of the containment levee and standing steam condensate was on the ground outside of the containment levee in the truck sulfur pit area. Additionally, it was noted that steam condensate from a steam relief pipe located on the north side of the Facility was running down the bank into the Neches River.
5. Caused, suffered, allowed, or permitted the storage of industrial solid waste in such a manner so as to cause the discharge or imminent threat of discharge of industrial solid waste into or adjacent to any water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE §§ 305.125(1) and 335.4, and TPDES Permit No. WQ0004074000, Operational Requirements No. 11.a, as documented during an investigation conducted on November 10, 2015. Specifically, a drum located outside the roofed storage area was full of liquid and missing bung plugs, a drum labeled Pine DX located under the roofed area was missing a bung plug, and a drum labeled Caprinus Oil XR SAE 40 located on the edge of the roofed area had an oily substance spilled on the top of the drum.
6. Failed to perform all measurements, tests, and calculations in a representative manner to ensure the accurate reporting of data, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0004074000, Other Requirements No. 2, as documented during an investigation conducted on November 10, 2015. Specifically, instead of the necessary statement and a value of zero (0), the detection limit of 0.005 milligrams per liter was reported for daily average and daily max copper values on the September 2015 DMR.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: Martin Operating Partnership L.P., Docket No. 2016-0096-MLM-E" to:

Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete two SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Seven Hundred Dollars (\$5,700) of the assessed administrative penalty shall be offset with the condition that the SEPs defined in Attachment A and Attachment B, incorporated herein by reference, are implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreements.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature

affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

12mm Morine Jr  
For the Executive Director

9/2/16  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Scott Shoup  
Signature

MAY 6, 2016  
Date

SCOT SHOUP  
Name (Printed or typed)  
Authorized Representative of  
Martin Operating Partnership L.P.

SR. VP OPERATIONS  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.



Attachment A  
Docket Number: 2016-0096-MLM-E  
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Martin Operating Partnership L.P.
Penalty Amount:	Eleven Thousand Four Hundred Three Dollars (\$11,403)
SEP Offset Amount:	Two Thousand Eight Hundred Fifty Dollars (\$2,850)
Type of SEP:	Contribution to a Third-Party Pre-Approved SEP
Third-Party Administrator:	Big Thicket Association
Project Name:	<i>Wetland Species and Ecosystems Analysis</i>
Location of SEP:	Neches and Sabine River Basins

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **Big Thicket Association** for the *Wetland Species and Ecosystem Analysis* project. The contribution will be used in accordance with the SEP Agreement between the Third-Party Administrator and the TCEQ. Specifically, the SEP Offset Amount will be used to inventory an additional taxonomic group, such as lichens, bryophytes, mussels, mollusks, amphibians, fish, or birds (the "Project"). The Project will involve collecting specimens from the Preserve as well as wetland properties in Orange and Jefferson Counties, which are in the process of being donated to the Preserve. Currently, a Memorandum of Understanding regarding the impending donation is in place that will allow inventory of these properties. These properties have never been inventoried and need data for resource management. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of the Project, including but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

Martin Operating Partnership L.P.  
Agreed Order - Attachment A

The Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to make this contribution and is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

b. Environmental Benefit

This Project will benefit the environment by identifying the biodiversity, both native and exotic, in wetland wildlife corridors to assist in stewardship and sustainability. It will also assess the state of pollution indicator species to determine the impact of pollution on the Preserve. Additionally, inventories will identify areas where invasive species are present and aid in the analysis of harmful invasive species spreads and their impacts so that areas for removal can be identified.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **Big Thicket Association SEP** and shall mail the contribution with a copy of the Agreed Order to:

Big Thicket Association  
Attention: Jan Ruppel, President  
P.O. Box 198  
Saratoga, Texas 77585

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087



#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3, above the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or the Project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



**Attachment B**  
**Docket Number: 2016-0096-MLM-E**  
**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Martin Operating Partnership L.P.</b>
<b>Penalty Amount:</b>	<b>Eleven Thousand Four Hundred Three Dollars (\$11,403)</b>
<b>SEP Offset Amount:</b>	<b>Two Thousand Eight Hundred Fifty Dollars (\$2,850)</b>
<b>Type of SEP:</b>	<b>Contribution to a Third-Party Pre-Approved SEP</b>
<b>Third-Party Administrator:</b>	<b>National Audubon Society, Inc. d/b/a Audubon Texas</b>
<b>Project Name:</b>	<b><i>Texas Coastal Island Stewardship Program</i></b>
<b>Location of SEP:</b> Anderson, Andrews, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bexar, Blanco, Borden, Bosque, Brazoria, Brazos, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Castro, Chambers, Clay, Cochran, Coke, Coleman, Collin, Colorado, Comal, Comanche, Concho, Cooke, Coryell, Crockett, Crosby, Dallas, Dawson, Denton, DeWitt, Dickens, Dimmit, Duval, Eastland, Ector, Edwards, Ellis, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Fort Bend, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Grayson, Grimes, Guadalupe, Hale, Hamilton, Hardin, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Houston, Howard, Hunt, Irion, Jack, Jackson, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, Kerr, Kimble, King, Kinney, Kleberg, Knox, Lamb, Lampasas, La Salle, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Lubbock, Lynn, Madison, Martin, Mason, Matagorda, Maverick, McCulloch, McLennan, McMullen, Menard, Medina, Midland, Milam, Mills, Mitchell, Montague, Navarro, Nolan, Nueces, Palo Pinto, Parker, Parmer, Polk, Reagan, Real, Refugio, Robertson, Refugio, Runnels, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Somervell, Starr, Stephens, Sterling, Stonewall, Sutton, Swisher, Taylor, Terry, Throckmorton, Tom Green, Travis, Trinity, Upton, Uvalde, Van Zandt, Walker, Waller, Washington, Victoria, Webb, Wharton, Willacy, Williamson, Wilson, Winkler, Wise, Yoakum, Young, and Zavala Counties	

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment B.

**1. Project Description**

a. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Administrator named above. The contribution will be to the **National Audubon Society, Inc. d/b/a Audubon Texas** for the *Texas Coastal Island Stewardship Program*. The contribution will be used in accordance with the SEP between the Third-Party Administrator and the TCEQ (the "Project"). Specifically, the SEP Offset Amount will be used for a portion of its lease payments for the islands where this Project will take place. The SEP Offset Amount will also be used for predator control activities, including traps, baits, fire ant control, and fuel for accessing the islands to place the traps and baits. Contractors will also be hired periodically to conduct larger-scale predator control activities such as feral hog removal. The Third-Party Administrator shall also use SEP Offset Amount for restoration activities, including planting native trees and shrubs, herbicide for invasive species removal, equipment such as rakes and shovels for manual invasive species removal, and fuel for transporting volunteers and staff for restoration activities. Restoration activities will also include purchase and disposal of a Bagster in order to remove collected trash from the islands. The Third-Party Administrator shall also purchase materials for building nesting towers, purchase "No Trespassing" signs, and hire a contractor to install the signs across the islands.

The Third-Party Administrator shall use the SEP Offset Amount for personnel labor through its warden program. Wardens shall conduct monitoring, habitat enhancement, and predator management. Wardens shall also conduct island management activities such as patrolling and counting bird populations by boat during the nesting season, developing new nesting habitat through plantings, and monitoring predator activity and erosion. The SEP will be done in accordance with all federal, state, and local environmental laws and regulations.

All dollars contributed will be used solely for the direct cost of implementing the Project, including, but not limited to supplies, materials, and equipment. Any portion of this contribution that is not spent on the specifically identified SEP may, at the discretion of the Executive Director ("ED"), be applied to another pre-approved SEP.

The Respondent's signature affixed to this Agreed Order certifies that the Respondent has no prior commitment to make this contribution and that it is being contributed solely in an effort to settle this enforcement action. The Respondent shall not profit in any manner from this SEP.

Martin Operating Partnership L.P.  
Agreed Order - Attachment B

b. Environmental Benefit

The populations of many species of water bird located along the Texas coast have been declining. Healthy feeding and nesting habitats are essential to the water birds' ability to survive and successfully reproduce. This Project addresses threats to water bird habitats such as erosion and subsidence, loss of nesting vegetation, fire ants, human disturbance, and mammal predators. This Project will also improve water quality in and around the island sanctuaries.

c. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Administrator and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Administrator. The Respondent shall make the check payable to **National Audubon Society, Inc. d/b/a Audubon Texas SEP** and shall mail the contribution with a copy of the Agreed Order to:

National Audubon Society, Inc. d/b/a Audubon Texas  
Attn.: Sharyl Sliger, Director of Finance & Administration  
2201 Main Street, Suite 600  
Dallas, Texas 75201

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the Enforcement SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Administrator. The Respondent shall mail a copy of the check and transmittal letter to:

Texas Commission on Environmental Quality  
Enforcement Division  
Attention: SEP Coordinator, MC 219  
P.O. Box 13087  
Austin, Texas 78711-3087

Martin Operating Partnership L.P.  
Agreed Order - Attachment B

#### **4. Failure to Fully Perform**

If the Respondent does not perform its obligations under this Attachment B, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the ED may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to fully implement and complete the Project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, the Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for the reimbursement of a SEP; shall make the check payable to "Texas Commission on Environmental Quality"; and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

#### **5. Publicity**

Any public statements concerning this SEP and/or project, made by or on behalf of the Respondent must include a clear statement that **the project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

#### **6. Recognition**

The Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

#### **7. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment B and in the attached Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.